

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Criminal Revision No.1320 of 2012 (O&M)

Date of Decision: January 13, 2020

Vikram

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amit Parashar, Advocate,
for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

MANOJ BAJAJ, J.

Petitioner has challenged the judgment dated 05.03.2012 passed by the learned Sessions Judge, Jind, whereby it has affirmed the judgment of conviction dated 12.09.2011 and order of sentence dated 13.09.2011 passed by the Chief Judicial Magistrate, Jind, whereby he was convicted and sentenced as under:-

Under Section 279 IPC	To undergo rigorous imprisonment for one month
Under Section 304-A IPC	To undergo rigorous imprisonment for one year.

However, the sentences were ordered to run concurrently.

As per the prosecution case, on 29.10.2007, complainant Sahib Singh (PW-1) hired the Three-wheeler bearing registration No.HR-46-2536 from Jind for carrying Bihari labourers to Village Lochab. The petitioner was driving the vehicle in question in a rash and negligent manner.

Complainant requested him not to drive the vehicle at high speed, but he kept driving in the same manner. When the three-wheeler crossed village Niran, then the driver collided with the eucalyptus tree, and the three wheeler toppled and its occupants sustained injuries. Jai Lal Paswan died on the spot. After causing the accident, the driver of the three wheeler ran away from the place of accident.

Learned counsel for the petitioner has contended that while convicting and sentencing the petitioner, the Courts below have discarded the testimony of eye-witnesses, namely, Rattan Paswan (PW-7), Mahesh Sada (PW-8) and Bhola Sada (PW-9), who did not support the prosecution case and turned hostile. According to him, the prosecution failed to establish the negligence of the petitioner in the accident. He has argued that as per statements of PW-7 to PW-9, the accident occurred as one of the wheels of the vehicle went in a pit and the three wheeler turned turtle. No local person was joined as a witness. It is also contended that once there were two versions in the prosecution story, the one which favours the accused should be adopted.

Learned counsel for the petitioner has further submitted that the act and conduct of the Investigating Officer was biased during the course of investigation, as he failed to put forward the true picture. The testimony of PW-1 alone could not be relied upon as he could not produce any railway ticket. Once the other eye-witnesses have turned hostile, therefore, the testimony of PW-1 could not be relied upon. Not only this, even the relative of the deceased did not support the stand of prosecution and, thus, prayed for allowing the revision petition.

On the contrary, Ms.Tanushree Gupta, learned Deputy

Advocate General, Haryana supported the findings of the courts below by stating that life of an innocent person was lost due to the rash and negligent driving of the three wheeler by the petitioner and, thus, urged this Court for dismissal of the revision petition.

I have heard the learned counsel for the parties, perused the record of the case and of the opinion that there is no merit in the revision petition and the same is liable to be dismissed.

From the oral as well as documentary evidence, it stands proved that the deceased died due to the injuries sustained by him in a vehicular accident. No doubt, PW-7 to PW-9 in their statements have stated that the accident in question took place because one of the wheels of the vehicle went into a pit, thereby giving an impression that the driver was not negligent. At the same time, it is clear from the statements of these witnesses that the vehicle was being driven by the petitioner when the accident took place. Even if the wheel of the vehicle went into a pit, it was clearly a negligent act on the part of the driver, who failed to control the vehicle and drove in a pit. Apart from this, the testimony of PW-1, who is an injured witness has supported the prosecution version. The argument of the learned counsel that the identification of the petitioner by PW-1 for the first time in the Court cannot be attached credibility is again without any merit, particularly when the statements of PW-7 to PW-9 have indicated involvement of the petitioner in the crime. It is settled law that in the revision jurisdiction, this Court is not to re-appreciate the evidence. The judgments passed by the trial Court as well Appellate Court is based upon the correct appreciation of the material and evidence on record, therefore, this Court does not find any illegality or impropriety to exercise the

revisional jurisdiction.

Resultantly, the revision petition is dismissed.

January 13, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

**Whether speaking/reasoned
Whether Reportable:**

Yes/No
Yes/No